

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SIMON HERNANDEZ,
on behalf of himself and others
similarly situated,

Plaintiff,
-against-

MEMORANDUM AND ORDER
13-CV-2875 (FB) (LB)

PROFESSIONAL MAINTENANCE &
CLEANING CONTRACTORS INC. and
MARTHA F. NARANJO,

Defendants.

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Appearances:

For the Plaintiff:

ROBERT L. KRASELNICK
271 Madison Avenue, Suite 1403
New York, NY 10016

BLOCK, Senior District Judge:

On September 10, 2014, Magistrate Judge Bloom issued a Report and Recommendation (“R&R”) recommending that default judgment be entered against defendant Professional Maintenance & Cleaning Contractors Inc. (“PMCC”) in the amount of \$88,281.90, consisting of \$40,870 in overtime wages, \$15,272.40 in unpaid spread-of-hours premiums, \$30,049.50 in liquidated damages, and \$2,090 in attorneys’ fees and expenses, plus pre-judgment interest of \$14,325.85 and post-judgment interest calculated pursuant to 28 U.S.C. § 1961. R&R at 16-17. The R&R also recommended

that plaintiff's suit against defendant Martha F. Naranjo ("Naranjo") be dismissed for failure to prosecute. R&R at 14-15. The R&R directed plaintiff to serve defendants with a copy of the R&R and provided that failure to object within fourteen days of receipt would preclude appellate review. *See id.* at 17. Defendants were served a copy of the R&R on September 15, 2014. To date, no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure to timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000)

Magistrate Judge Bloom's R&R contains no error, let alone plain error. However, the interest calculation must be updated to account for the passage of time since the R&R was issued. From the date of the R&R to the date of this Order, the total amount of interest accrued is \$1,067.93. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment (1) against defendant PMCC in favor of plaintiff in the amount of \$88,281.90, plus pre-judgment interest of

\$15,393.78 and post-judgment interest calculated pursuant to 28 U.S.C. § 1961; and (2) dismissing defendant Naranjo.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
January 8, 2015